THE HON'BLE SRI JUSTICE G.CHANDRAIAH

W.P.NO.24511 OF 1997

O R DE R

This writ petition is filed for a writ of certiorari calling for the records relating to the proceedings of the 1st respondent in Memo.No.115/M.II(1)/95 dated 25.7.1997 and quash the same as illegal and arbitrary.

2. The case of the petitioner, which is a labour contract society is that it has applied for quarry lease for extracting nappa slabs in respect of the land in S.No.689/2-16 of Mandadi village in Macherla Mandal admeasuring Acs.512-12 cents along three other co-operative society and five individuals, as per the procedure. It is averred that out of four co-operative societies, one society has withdrawn and the two others were defaults to the Government and the individuals who submitted the applications, do not possess the requisite qualifications and hence as per Rule 12(2) of the Andhra Pradesh Minor Mineral Concession Rules, 1966 the petitioner – society is the only valid applicant. But the 3rd respondent – Deputy Director of Mines and Geology, Guntur by his proceedings no.796/AI/94 dated 24.3.1994 granted quarry lease to certain individuals and the co-operative society which has withdraw and hence challenging the same, the petitioner – society preferred appeal under Rule 35 and the 2nd respondent – Director of Mines and Geology, Andhra Pradesh by his proceedings in Rc.No.92-93/E4/94 dated 23.11.1994 on the ground that as the 3rd respondent did not refer the matter with his recommendations to the 1st respondent – Government as there are more applications than one, set aside the proceedings dated 24.3.1994 issued by the 3rd respondent. The individual applicantsalso filed revisions under Rule 35-A of the

Rules before the Government and the Government in Memo.No.115/M.II(1)/95 dated 25.7.1997 directed that the entire land in S.No.689/2-16 situate in Mandadi village be divided into equal plots of Acs.10-00 each and allot the same in the order of priority on the basis of the date of the receipt of quarry lease applications and also directed to consider fresh applications and in so far as the petitioner – society is concerned, the Government directed consideration of the claim of the petitioner – society after all other societies, on the ground that the area of operation is restricted to Gottipalla Revenue village only. Now the grievance of the petitioner is that under Article 19(1)(g) of the Constitution of India, all the citizens have fundamental right to practice any profession or to carry on occupation trade or business in any part of the country and further the restriction is meant only for admission of its members and the same is not with regard to area of operation and hence on these grounds, it is contended in the affidavit filed in support of the petitioner that the order of the Government in directing to consider the claim of the petitioner after the consideration of other applications, is arbitrary and illegal and hence the proceedings of the Government are liable to be set aside.

3. The Government filed counter and inter alia stated that there is dispute between the Revenue Department and the Forest Department and only after the determination of the title of the land i.e., whether the area belongs to Forest Department or Government Poramboke land, the applications will be processed.

4. From the above it is clear that there is dispute with regard to the title of the land between the Revenue and Forest Departments and hence in this circumstances and having regard to the averments made in the writ petition, I pass the order as under:

"As soon as the dispute with regard to the title of the land in question is resolved between the Revenue Department and the Forest

Department and the land becomes free for grant of quarrying lease, it is open for the authorities to consider the applications of all the eligible co-operative societies as well as individuals in accordance with law."

5. With the above direction, the writ petition is disposed of. No costs.

AVS

06—11—2007